

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL A. BURNHART,) CASE NO. C06-0816-RSL
)
Plaintiff,)
)
v.) ORDER DENYING PLAINTIFF'S
)
COMMANDER REED HOLTGEERTS,) MOTION TO COMPEL
)
)
Defendant.)

Plaintiff is a Washington prisoner who is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. §1983. On November 22, 2006, the Court directed the Clerk to serve defendants with a copy of the complaint. (Dkt. #28). Defendants have not yet filed an answer. On December 18, 2006, plaintiff filed a motion to compel defendants to answer interrogatories. (Dkt. #32). On December 29, 2006, defendants filed a response to the motion to compel. (Dkt. #34). Having reviewed the motion, response, and the balance of the record, the Court does hereby find and ORDER as follows:

(1) Plaintiff's motion to compel is premature for several reasons: First, it appears that plaintiff filed the motion before he attempted to resolve the dispute with defendants, as required by the Local Rules and the Federal Rules of Civil Procedure. *See* Local Rule CR 37(a)(2)(A); Fed. R. Civ. P. 37(a)(2)(A). Second, plaintiff filed the motion to compel before the 30-day limit to respond to the interrogatories had elapsed. Finally, defendants assert that they have not been

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01 served with a copy of the disputed interrogatories. (Dkt. #34 at 2). For these reasons, plaintiff's
02 motion to compel (Dkt. #32) is DENIED.

03 (2) The Clerk is directed to send a copy of this Order to plaintiff, to counsel for
04 defendants, and to Chief United States District Judge Robert S. Lasnik.

05 DATED this 8th day of January, 2007.

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08 Mary Alice Theiler
09 United States Magistrate Judge
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